

OLIVA  
Serial No. 09/688,170

### REMARKS

Favorable consideration of the captioned application is respectfully requested.

#### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants:

1. Request that the Patent Office ensure that a portion of the Substitute Specification submitted on December 27, 2002 was correctly printed, i.e., the paragraph extending from page 14, line 16 to page 15, line 10. Applicant specifically wishes to ensure that the expression for the term  $\beta$  was correctly and clearly printed in the Substitute Specification.
2. Thank the Examiner for the allowance of claims 33 and 34.
3. Add new independent claims 35 and 36, which correspond to previously pending independent claims 24 and 28 written in independent form (i.e., including all the limitations of the base claim and any intervening claims as worded at the time of issuance of the outstanding final Office Action).
4. Amend claims 1, 19, 20, and 21 (see section B below).
5. Respectfully traverse all prior art rejections (see Section C below).

#### **B. THE AMENDMENTS TO THE CLAIMS**

Independent claims 1, 19, 20, and 21 have been amended to specify that that the at least two different portions of the optical refractive element, which split the collected light beam into the at least two different beam portions, simultaneously collect the emitted light beam and simultaneously project the split different portions of light beam.

Applicants hope that the Examiner will agree that the claim amendments do not invoke new issues. Indeed, various claims already refer to two surface portions (*see, e.g.,* dependent claim 5). In addition, the requirements of collecting the light beam and

projecting at least two beam portions on the reading area, with the reading area including two different zones, reside in extant claims such as independent claims 34, 35, and 36, for example.

### C. PATENTABILITY OF THE CLAIMS

Claims 1, 4-5, 7-9, 11, 16, 19-23, 25-27 and 30 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent 5,627,360 to Rudeen (see enumerated paragraph 5 of the Office Action). Claim 10 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,627,360 to Rudeen in view of U.S. Patent 5,296,689 to Reddersen et al (see enumerated paragraph 7 of the Office Action). Claims 2-3, 12, 14-15, 17-18, 29 and 31-32 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,627,360 to Rudeen in view of EP 0 0997 760 A1 to Canini (see enumerated paragraph 8 of the Office Action). All prior art rejections are respectfully traversed for at least the following reasons.

In response to Applicants' arguments, the Examiner contends that Rudeen uses an optical element which splits or separates the collected light beam into different parts. More specifically, the Examiner states

Rudeen teaches the optical element producing at least two different light beams 127, 129 by splitting the collected light beam (the beam passing through the window 20 is separated into different parts. For example, when the beam strikes the window 20, end portion of the beam passing through the first 122 and the second portion 124 of the optical element 20A provides a first 127 and second 129 cursor image on two different spots. Figures 8-9 clearly show the separated beam into different part. Therefore, the end portions of the light beam is splitted/redirected from the central portion of the beam 126, 127, which provides two different zones of a reading area of a coded information reader along at least two different optical paths (i.e. a first cursor image 127 above the scan line and a second cursor image 129 below the scan line 130, respectively, see figure 8-9).

The Applicant respectfully disagrees with the Examiner's application and interpretation of Rudeen.

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The light beams 127, 129 projected by the optical element 20 of Rudeen are not different portions of the collected light beam. That is, the light beams 127, 129 are not produced by splitting or separating the collected light beam into different beam portions. In fact, the light beam 22 of Rudeen is a scanning beam which, being swept upon the optical element 20, strikes in succession (that is at different times) upon the three different portions 122, 120, and 124 of the optical element 20, and is projected therefrom. Therefore, the light beam 22 projected by the first end portion 122 of the optical element 20 of Rudeen is the same light beam which is subsequently projected by the central portion 120 of the optical element 20 and which, in turn, is subsequently projected by the second end portion 124 of the optical element 20.

Rudeen's structure and operation is entirely inapposite to Applicant's claims. In Applicant's claims, the refractive optical element splits the collected light beam into different portions, and the different portions of the refractive optical element project respective different portions of the collected light beam.

Applicant reiterates that Rudeen discloses a scanning reader wherein the light beam is swept upon the optical element 20 (that is the light beam collected by the optical element 20 strikes upon the three different portions 122, 120 and 124 at different times). Such being the case, the different portions 122, 120, and 124 of the optical element 20 of Rudeen cannot simultaneously neither collect nor project the light beam striking thereon. Even if a human operator has a visual perception that the light beams 127 and 129 are simultaneously projected, there is no actual simultaneous collection or projection. This phenomena is explained by the fact that a scanning reader has typically a minimum scanning frequency of 50 scans/sec while the human threshold of perception is of 10 scans/sec.

The foregoing and other considerations amply demonstrate that Applicant's claims are novel and non-obvious over Rudeen. Accordingly, the Examiner has ample bases for

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withdrawing all rejections and for allowance of all pending claims. A formal indication of allowance is earnestly solicited.

#### D. MISCELLANEOUS

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,  
NIXON & VANDERHYE P.C.

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By:



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